

AUG 19 2008 SP/MP/BS

ORDINANCE NO. 2008-17

EFFECTIVE DATE

AUG 25 2008

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS FOR ORANGE COUNTY, FLORIDA, CREATING THE “MIDTOWN ORLANDO COMMUNITY DEVELOPMENT DISTRICT” PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING FOR THE ESTABLISHMENT AND NAMING OF THE DISTRICT; PROVIDING FOR THE LEGAL DESCRIPTION OF THE EXTERNAL BOUNDARIES OF THE DISTRICT; PROVIDING FOR FINDINGS OF FACT; PROVIDING THE FUNCTIONS AND POWERS OF THE DISTRICT; DESIGNATING THE INITIAL MEMBERS OF THE DISTRICT’S BOARD OF SUPERVISORS; PROVIDING FOR THE APPLICABLE FILING FEE; PROVIDING FOR AN INTERLOCAL AGREEMENT; PROVIDING FOR COMPLIANCE WITH CHAPTER 190, FLORIDA STATUTES, AND ALL OTHER APPLICABLE LAWS AND ORDINANCES; PROVIDING FOR REPEAL IN THE ABSENCE OF BONDS BEING ISSUED; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the “Uniform Community Development District Act of 1980,” Chapter 190, *Florida Statutes* (hereinafter, the “Act”), sets forth the exclusive and uniform method for establishing a community development district; and

WHEREAS, Section 190.005(2) of the Act requires that a petition for the establishment of a community development district of less than 1,000 acres be filed by the petitioner with the county commission of the county having jurisdiction over the majority of land in the area in which the district is to be located; and

WHEREAS, Section 190.005(1)(a) of the Act requires that such petition contain certain information to be considered at a public hearing before the Board of County Commissioners for Orange County, Florida (the “Board”); and

WHEREAS, Buena Vista Corporation (the “Petitioner”), having obtained written consent to the establishment of the District by the owners of one hundred percent (100%) of the real property to be included in the District, has petitioned Orange County, Florida (the “County”) to establish the Midtown Orlando Community Development District (the “District”) pursuant to the Act; and

WHEREAS, Petitioner is a corporation authorized to conduct business in the State of Florida and whose address is 7347 Sand Lake Road, Suite 200, Orlando, Florida, 32819; and

WHEREAS, the petition submitted by Petitioner on June 11, 2008 (the “Petition”) to the County has been determined to contain the requisite information as mandated by Section 190.005(1)(a) of the Act; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the Board on August 19, 2008, as continued from July 29, 2008; and

WHEREAS, on August 19, 2008, the Board considered the record of the public hearing and the factors set forth in Section 190.005(1)(e) of the Act and, upon such review, has determined that granting the Petition to Establish the Midtown Orlando Community Development District is in the best interest of the County; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services to the subject land and will provide for the orderly growth of unincorporated Orange County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR ORANGE COUNTY, FLORIDA THAT:

SECTION 1. AUTHORITY. This ordinance is enacted in compliance with and pursuant to the “Uniform Community Development District Act of 1980,” Chapter 190, *Florida Statutes*.

SECTION 2. ESTABLISHMENT AND DISTRICT NAME. The Petition is hereby granted and there is hereby established a community development district situated entirely within unincorporated Orange County, Florida, which District shall be known as the “Midtown Orlando Community Development District.”

SECTION 3. EXTERNAL BOUNDARIES OF THE DISTRICT. The external boundaries of the District are legally described in Exhibit “A”, attached hereto and incorporated herein by this reference, the overall parcel containing 171.40 contiguous acres, more or less. No real property within the external boundaries of the District is to be excluded.

SECTION 4. FINDINGS OF FACT. The Board hereby finds and determines, pursuant to Section 190.005(2) of the Act, based on the testimony and evidence presented before it and the record established at the public hearing, that:

- a. All statements within the Petition are true and correct.
- b. Establishment of the District and all land uses and services planned within the proposed District are not inconsistent with applicable elements or portions of the State Comprehensive Plan or the local Comprehensive Plan adopted by the County.
- c. The area of land within the District, described in Exhibit “A”, is of a sufficient size, is sufficiently compact and is sufficiently contiguous to be developed as one functional interrelated community.
- d. The District provides the best alternative available for delivering community development services and facilities to the area to be served by the proposed District without imposing an additional burden on the general population of the local general-purpose government. The establishment of the District will provide for a more efficient use of resources without burdening the general body of taxpayers in Orange County with the cost of installing the infrastructure and managing, operating and maintaining the community services and facilities.
- e. The community development services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities. In addition, the establishment of the District will provide an entity capable of making reasonable provisions for the operation and maintenance of the District services and facilities.

- f. The area to be served by the proposed District is amenable to separate independent special-district government.

SECTION 5. FUNCTIONS AND POWERS. The District shall have all powers and functions granted by the Act pursuant to Sections 190.011 and 190.012(1), *Florida Statutes*, as amended from time to time, to include the power to finance, fund, plan, establish, acquire, construct, reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities and basic infrastructure within, and outside of, the boundaries of the District. Consent is hereby given to the District to exercise those special powers found in Sections 190.012(2)(a), (d) and (e), *Florida Statutes*. The District shall not have any zoning or permitting powers governing land development or the use of land. Any debt obligation of the District shall not constitute a debt or financial burden of any local general-purpose government. This Ordinance shall not, and shall not be construed to, expand, modify, or delete any provisions of the Uniform Community Development District Act of 1980 as set forth in Chapter 190, *Florida Statutes*.

SECTION 6. BOARD OF SUPERVISORS. The five persons designated to serve as initial members of the District's Board of Supervisors are as follows:

- Name: Dale Fitch
- Name: Aasha Guruvadoo
- Name: William Ava Becker
- Name: Dale Linden
- Name: Richard Bradley

All of the above-listed persons shall serve until their successors are chosen and qualified, as provided in Section 190.006, *Florida Statutes*.

SECTION 7. FILING FEE. Prior to the County delivering this Ordinance to the Secretary of State for filing, the Petitioner shall have paid to the County a fee covering the County's cost of administration and review of the Petition. The County will provide an invoice to the Petitioner for the amount of the fee within a reasonable period of time following the date

of the public hearing at which this Ordinance is considered and such invoiced amount shall not exceed the amount set forth in Section 190.005(b)(1), *Florida Statutes*.

SECTION 8. INTERLOCAL AGREEMENT. (A) *Failure to Adopt Interlocal Agreement.* Failure of the District’s Board of Supervisor’s to adopt the Interlocal Agreement between Orange County and the Midtown Orlando Community Development District (the “Interlocal Agreement”), in substantially the form attached hereto as Exhibit “B”, within ninety (90) days of the effective date of this Ordinance, may result in repeal of this Ordinance by the Board of County Commissioners without further notice. Once approval of the Interlocal Agreement is secured from Orange County and the District, the Interlocal Agreement shall be recorded in the Official Records of Orange County, Florida, at the District’s expense, to indicate fulfillment of this obligation and the County will not endeavor to repeal this Ordinance.

(B) *Certain Challenges Precluded.* The District shall not initiate any action or proceeding following the effective date of this Ordinance in or with any court of competent jurisdiction or administrative agency the purpose of which is to challenge those certain County restrictions placed on the District’s ability to levy assessments on residential property, as such restrictions are set forth in Section 4.B of the Interlocal Agreement.

SECTION 9. COMPLIANCE WITH LAWS AND ORDINANCES. The District shall comply with the provisions of the Act and all applicable federal, state and local laws, ordinances, statutes, rules and regulations, including the Orange County Comprehensive Plan and all applicable provisions of the Codes and Ordinances of Orange County, Florida.

SECTION 10. REPEAL IF NO BONDS ISSUED. If the District shall have: (A) failed to obtain a favorable bond validation judgment from any court of competent jurisdiction within three (3) years from the effective date of this Ordinance, excluding any period required to exhaust all rights of appeal, or (B) failed to issue its first series of bonds within seven (7) years from the dated date of a final court order validating such bonds (from the Circuit Court, if no appeal is brought within the statutory appeal period, or from the State Supreme Court, if an appeal is timely brought), then the Board of County Commissioners may repeal this Ordinance

without further notice. Notwithstanding the foregoing, if at the time of the occurrence of either (A) or (B) above the District has issued and there remains outstanding any bond anticipation note, then any action of the Board of County Commissioners to repeal this Ordinance shall become effective no earlier than twelve (12) months from the date of such Board action to afford the District a reasonable period of time to avoid or cure any default on such bond anticipation note.

SECTION 11. SEVERABILITY. If any provision of this Ordinance, or the application thereof, is finally determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed to be severable and the remaining provisions shall continue in full force and effect, provided that the invalid, illegal or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

SECTION 12. EFFECTIVE DATE. This Ordinance shall take effect pursuant to general law.

ADOPTED THIS 9th DAY OF August, 2008.

ORANGE COUNTY, FLORIDA
By: Board of Orange County Commissioners

BY: David C. Hally Jr
Richard T. Crotty
County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: Martha O. Haynie
Deputy Clerk

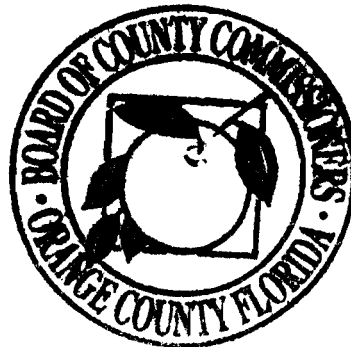


Exhibit A

Legal Description of District Boundaries

Lot 1 and portions of 2, and Tracts "A" and "B", RUBY LAKE, according to the plat thereof, as recorded in Plat Book 67, Pages 42 through 48, Public Records of Orange County, Florida, TOGETHER WITH Lot 2, MARBELLA - PHASE 1, according to the plat thereof, as recorded in Plat Book 42, Pages 149 and 150, Public Records of Orange County, Florida, being more particularly described as follows:

PARCEL #1 (RUBY LAKE LOTS 1 & 2)

BEGINNING at the West 1/4 corner of Section 14, Township 24 South, Range 28 East, Orange County, Florida; thence along the South line of the Northwest 1/4 of said Section 14, North 89°27'15" East, 630.95 feet to the Westerly right of way line of Palm Parkway, per Official Records Book 5138, Page 1988, Public Records of Orange County, Florida; thence along said Westerly right of way line the following six (6) courses and distances: (1) South 38°37'33" West, 290.20 feet to the point of curvature of a tangent curve concave Southeasterly, having a radius of 2,165.00 feet, a central angle of 16°18'17" and a chord bearing and distance of South 30°28'24" West, 614.02 feet; (2) thence along the arc of said curve 616.10 feet to the point of tangency; (3) South 22°19'16" West, 100.71 feet to the point of curvature of a tangent curve concave Northwesterly, having a radius of 1,485.00 feet, a central angle of 57°46'13" and a chord bearing and distance of South 51°12'22" West, 1,434.67 feet; (4) thence along the arc of said curve 1,497.30 feet to the point of tangency; (5) South 80°05'29" West, 159.57 feet to the point of curvature of a tangent curve concave Southeasterly, having a radius of 885.00 feet, a central angle of 31°31'32" and a chord bearing and distance of South 64°19'43" West, 480.83 feet; (6) thence along the arc of said curve 486.95 feet to the South line of Ruby Lake per Plat Book 67, Pages 42-48, Public Records of Orange County, Florida, said point hereinafter referred to as POINT "A"; thence along said Southerly line the following four (4) courses and distances: (1) North 89°50'01" West, 1,053.44 feet; (2) North 89°54'38" West, 334.30 feet; (3) North 00°19'10" East, 49.77 feet; (4) North 89°13'06" West, 791.24 feet to the Westerly line of said plat of Ruby Lake; thence along said Westerly line the following fourteen (14) courses and distances: (1) North 00°02'07" West, 300.98 feet; (2) South 89°44'45" East, 658.24 feet; (3) North 00°03'05" West, 352.48 feet; (4) South 89°54'08" East, 136.94 feet; (5) North 00°15'10" East, 149.99 feet; (6) North 89°53'56" West, 136.99 feet; (7) North 00°18'58" East, 412.40 feet; (8) South 89°57'31" East, 137.22 feet; (9) North 00°18'30" East, 538.14 feet; (10) South 89°42'19" East, 71.82 feet; (11) North 00°31'08" East, 14.01 feet; (12) South 89°39'03" East, 169.40 feet; (13) North 00°22'31" East, 164.93 feet; (14) North 00°20'25" East, 1,344.33 feet to the Northerly line of said plat of Ruby Lake; thence along said Northerly line the following five (5) courses and distance: (1) South 89°53'04" East, 94.00 feet; (2) South 89°09'46" East, 115.60 feet; (3) South 00°20'25" West, 1,343.72 feet; (4) South 89°38'32" East, 215.59 feet; (5) North 00°18'02" East, 163.34 feet; thence North 58°44'45" East, 16.95 feet; thence North 67°37'27" East, 83.81 feet; thence North 41°57'51" East, 64.69 feet; thence South 56°55'25" East, 15.43 feet; thence North 66°36'10" East, 63.88 feet; thence North 76°26'50" East, 58.37 feet; thence North 77°38'10" East, 13.57 feet; thence North 57°38'46" West, 76.00 feet; thence North 79°11'58" East, 114.12 feet; thence South 30°16'39" East, 28.95 feet; thence North 63°56'24" East, 26.33 feet; thence North 00°16'27" East, 100.32 feet; thence South 89°43'32" East, 1,067.97 feet to the point of curvature of a tangent curve concave Southwesterly, having a radius of 500.00 feet, a central angle of 56°22'06" and a chord bearing and distance of South 61°32'29" East, 472.31 feet; thence along the arc of said curve 491.91 feet to the point of tangency; thence South 33°21'26" East, 134.53 feet to a point on a non-tangent curve concave South, having a radius of 71.00 feet, a central angle of 91°42'40" and a chord bearing and distance of South 77°30'06" East, 101.90 feet; thence along the arc of said curve 113.65 feet to the point of reverse curvature of a tangent curve concave Northeasterly, having a radius of 16.00 feet, a central angle of 58°04'47" and a chord bearing and distance of South 60°41'10" East, 15.53 feet; thence along the arc of said curve 16.22 feet to the point of tangency; thence South 89°43'33" East, 96.25 feet to the point of curvature of a tangent curve concave Northerly, having a radius of 220.00 feet, a central angle of 37°07'22" and a chord bearing and distance of North 71°42'46" East, 140.06 feet; thence along the arc of said curve 142.54 feet to the point of tangency; thence North 53°09'05" East, 69.03 feet to the East line of the Northeast 1/4 of said Section 15; thence along said East line, South 00°00'35" West, 159.63 feet to the POINT OF BEGINNING of Parcel #1.

TOGETHER WITH:

PARCEL #2

COMMENCING at the West 1/4 corner of Section 14, Township 24 South, Range 28 East; thence along the West line of said Section 14, North 00°00'35" East, 175.04 feet to the POINT OF BEGINNING of Parcel #2 and a point on a non-tangent curve concave Easterly, having a radius of 585.00 feet, a central angle of 32°29'42" and a chord bearing and distance of North 16°27'04" West, 327.35 feet; thence along the arc of said curve 331.78 feet to the point of tangency; thence North 00°12'13" West, 359.27 feet to the point of curvature of a tangent curve concave Westerly, having a radius of 415.00 feet, a central angle of 23°56'01" and a chord bearing and distance of North 12°10'13" West, 172.10 feet; thence along the arc of said curve 173.35 feet to a point on a non-tangent curve concave Southwesterly, having a radius of 666.00 feet, a central angle of 25°05'40" and a chord bearing and distance of North 44°32'28" West, 289.37 feet; thence along the arc of said curve 291.70 feet; to the point of compound curvature of a non-tangent curve concave South, having a radius of 415.00 feet, a central angle of 22°36'56" and a chord bearing and distance of North 76°15'11" West, 162.75 feet; thence along the arc of said curve 163.81 feet to the point of tangency; thence North 87°33'39" West, 905.99 feet to the point of curvature of a tangent curve concave Northerly, having a radius of 585.00 feet, a central angle of 20°39'39" and a chord bearing and distance of North 77°13'49" West, 209.81 feet; thence along the arc of said curve 210.95 feet to the North line of said plat of Ruby Lake; thence along said North line the following two (2) courses and distances: (1) South 89°17'53" East, 280.41 feet; (2) South 89°14'15" East, 1,321.02 feet to the East line of the Northeast 1/4 of Section 15, Township 24 South, Range 28 East; thence along said East line, South 00°00'35" West, 1,150.29 feet to the POINT OF BEGINNING of Parcel #2.

AND TOGETHER WITH:

PARCEL #3 (MARBELLA PH 1)

COMMENCING at the aforementioned POINT "A"; thence South 89°51'23" East, 224.32 feet to the most Westerly point of Lot 2, MARBELLA - PHASE 1, per Plat Book 42, Pages 149 and 150, Public Records of Orange County, Florida and the POINT OF BEGINNING #3, said point being on the Southerly right of way of said Palm Parkway and a point on a non-tangent curve concave South, having a radius of 755.00 feet, a central angle of 18°41'05" and a chord bearing and distance of North 70°45'12" East, 245.12 feet; thence along said Southerly right of way line and the arc of said curve 246.21 feet; thence continue along said right of way line the following two (2) courses and distances: (1) North 80°05'33" East, 159.57 feet to a point on a non-tangent curve concave Northerly, having a radius of 1,614.96 feet, a central angle of 09°12'47" and a chord bearing and distance of North 75°29'21" East, 259.40 feet; (2) thence along the arc of said curve 259.68 feet to a point on a non-tangent curve concave Southwesterly, having a radius of 25.00 feet, a central angle of 91°01'42" and a chord bearing and distance of South 63°36'16" East, 35.67 feet; thence along the arc of said curve 39.72 feet to the point of tangency; thence South 17°46'24" East, 175.75 feet to the point of curvature of a curve concave Westerly, having a radius of 115.00 feet, a central angle of 70°19'46" and a chord bearing and distance of South 17°23'29" West, 132.46 feet; thence along the arc of said curve 141.16 feet to the point of compound curvature of a curve concave Northwesterly, having a radius of 255.00 feet, a central angle of 13°41'51" and a chord bearing and distance of South 59°24'18" West, 60.82 feet; thence along the arc of said curve 60.96 feet to the point of compound curvature of a non-tangent curve concave Northerly, having a radius of 15.89 feet, a central angle of 68°56'31" and a chord bearing and distance of South 87°19'56" West, 17.98 feet; thence along the arc of said curve 19.11 feet to the point of reverse curvature of a non-tangent curve concave Southeasterly, having a radius of 50.00 feet, a central angle of 138°51'16" and a chord bearing and distance of South 38°59'01" West, 93.62 feet; thence along the arc of said curve 121.17 feet; thence South 59°11'01" West, 46.98 feet; thence South 81°00'53" West, 234.17 feet; thence North 89°50'51" West, 231.90 feet to the West line of MARBELLA - PHASE 1 per Plat Book 42, Pages 149 and 150, Public Records of Orange County, Florida; thence along said West line, North 00°09'14" East, 300.82 feet; thence North 89°50'52" West, 53.80 feet to the Southerly right of way line of said Palm Parkway and the POINT OF BEGINNING.

The three Parcels containing 7,466,040 square feet or 171.40 acres, more or less.

LESS AND EXCEPT:

A portion of Lot 1, Ruby Lake, as recorded in Plat Book 67, Pages 42 through 48, of the Public Records of Orange County, Florida, being a portion of the Southwest ¼ of Section 15, Township 24 South, Range 28 East, and being more particularly described as follows:

Commence at a found 4"x4" unmarked concrete monument found at the Northeast corner of Theron H. Keen's Addition, as recorded in Plat Book F, Page 28, of the Public Records of Orange County, Florida, being the intersection of the west line of said Ruby Lake and the East-West Centerline of said Section 15; thence, run South 00°22'31" West along said west line a distance of 164.93 feet to a found 4"x4" unmarked concrete monument and the Point of Beginning of the parcel herein described; thence, North 89°39'03" West along the south line of Block 53 of said Theron H. Keen's Addition and the westerly extension thereof a distance of 169.40 feet to a point on the easterly line of Block 54 of said subdivision; thence, South 00°31'08" West along said easterly line a distance of 14.01 feet; thence, leaving said easterly line, South 89°42'19" East a distance of 169.44 feet to the southerly extension of said west line of Ruby Lake; thence, North 00°22'31" East along said extension a distance of 13.85 feet to the Point of Beginning.

Containing 2360 square feet (0.0542 acre) of land, more or less.

Exhibit B

INTERLOCAL AGREEMENT BETWEEN ORANGE COUNTY, FLORIDA AND THE MIDTOWN ORLANDO COMMUNITY DEVELOPMENT DISTRICT REGARDING THE EXERCISE OF POWERS AND COOPERATION ON VARIOUS PROJECTS

THIS INTERLOCAL AGREEMENT (this "Interlocal Agreement") is made by and between ORANGE COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter called "County"), and MIDTOWN ORLANDO COMMUNITY DEVELOPMENT DISTRICT, a Florida community development district (hereinafter "District").

WHEREAS, the Midtown Orlando Community Development District is a local unit of special purpose government established pursuant to and governed by the provisions of Chapter 190, *Florida Statutes*, with offices located at 12051 Corporate Boulevard, Orlando, Florida 32817; and

WHEREAS, Orange County, Florida is a charter county and political subdivision of the State of Florida, with offices located at 201 South Rosalind Avenue, Orlando, Florida; and

WHEREAS, the District was established by County Ordinance No. 2008-17 (the "Establishing Ordinance") after receipt of a petition from Buena Vista Corporation, a Florida corporation (the "Petitioner"); and

WHEREAS, the District recognizes that the lands within the District's boundaries are subject to the zoning and permitting powers of the County governing land development and land use and that the County has enacted a PD Ordinance for Ruby Lake to which such lands are subject; and

WHEREAS, the District acknowledges and understands that the use of the private development within the District's boundaries is subject to those conditions set forth in the Ruby Lake planned development approved on July 30, 2002; and

WHEREAS, the Petitioner negotiated the content of this Interlocal Agreement with the County to further define the relationship and allocate the responsibilities between the District and the County; and

WHEREAS, Petitioner has entered into an agreement with the County to present this Interlocal Agreement to the Board of Supervisors of the District at its organizational meeting; and

WHEREAS, pursuant to Chapter 190, *Florida Statutes*, the District is presently authorized to construct, acquire, and/or maintain infrastructure improvements and services including, but not limited to, roads, roadway and other drainage collection and transmission

systems and water management systems, bridges, potable and chilled water distribution systems, wastewater collection and reclaimed water transmission systems reuse distribution systems, street lighting systems, open space, and to exercise all other powers granted by the County; and

WHEREAS, it is in the mutual interest of the District and the County (collectively, the “Parties”) to establish intergovernmental relations that encourage, promote and improve the coordination, overall effectiveness and efficiency of governmental activities and services; and

WHEREAS, Florida law permits governmental units to make the most efficient use of their powers by enabling them to cooperate with one another on a basis of mutual advantage through interlocal agreements; and

WHEREAS, the Parties find this Interlocal Agreement to be necessary, proper and convenient to the exercise of their powers, duties and purposes authorized by law; and

WHEREAS, the Parties desire to exercise jointly their common powers and authority concerning the provision of certain services and facilities to avoid unnecessary and uneconomic duplication of services and facilities and to clarify responsibilities, obligations, duties, powers, and liabilities.

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Authority. This Interlocal Agreement is entered into pursuant to the authority set forth in Chapters 190 and 163, *Florida Statutes*, and other applicable law. This Agreement shall be recorded in the Official Records of Orange County, Florida, with all recording costs or fees paid by the District, and shall constitute a covenant running with the land as to that certain property included in the District and as set forth on Exhibit “A” attached hereto.

Section 2. Recitals. The recitals stated above are true and correct and by this reference are incorporated into and form a material part of this Interlocal Agreement.

Section 3. Authority to Contract. The execution of this Interlocal Agreement has been duly authorized by the appropriate body or official of the District and the County, each party has complied with all applicable requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

Section 4. Exercise of Powers.

A. **Bonded Indebtedness.** Certain infrastructure expected to be authorized by the District is to be constructed utilizing revenue bonds or bond anticipation notes issued by the District. This indebtedness shall be a debt of the District and not the County, as provided in Chapter 190, *Florida Statutes*. Pursuant to Section 190.016(12), *Florida Statutes*, all bonds issued by the District having a maturity of greater than five (5) years shall be validated. The Parties acknowledge and agree that the long-term debt of the District shall not exceed the total validated debt of \$200,000,000. Such long-term debt shall not be issued with a final maturity greater than thirty-three (33) years from the date the bonds are issued. Refundings of debt shall not be included in calculating the amount of total validated debt outstanding. The capitalized

interest period for debt service will not extend beyond one (1) year from the expected date of completion of construction as defined at the time of closing on the bonds, for a maximum capitalized interest period of three (3) years, followed by a maximum amortization term of thirty (30) years. The bonds shall have a substantially level debt service payment. For purposes of this section, long-term debt of the District shall mean any debt obligation issued by the District with a final maturity in excess of seven (7) years.

Furthermore, the District will submit a report to the County, prior to issuing any debt, documenting its compliance with the current "industry standard" value-to-lien ratio of three-to-one. "Value" shall be measured on an as-improved basis (assuming that infrastructure is installed). "Lien" shall be measured as total District debt outstanding at the time of the issuance of such debt, to include bonds to be issued. The District will not issue debt that does not comply with the three-to-one ratio without the prior consent of the County.

B. *Assessments on Residential Property.* The District and the County agree that no property zoned for residential purposes shall ever be burdened by ad valorem taxes or assessments and other charges imposed by the District to fund any improvements, services, operation, or obligations of the District. The District specifically waives its right to impose taxes or assessments on any property zoned for residential purpose; however, the County and the District acknowledge and agree that property zoned for residential purposes shall not include timeshare units, overnight lodging, hotels or similar uses, or resort residential uses.

C. *Roads.*

(1) All roads built or financed by the District shall be open to the public. The District shall own and maintain, at the expense of the District, all roads and accompanying stormwater systems within the boundaries of the District which are built or financed by the District, unless and until the ownership and maintenance of such facilities are accepted by another unit of local government. The District shall control access points to District roads and establish setback, signage and street light standards for District public roadways.

(2) District maintenance responsibilities shall extend from right-of-way to right-of-way lines and shall include all water retention or stormwater facilities relating to said roadways.

(3) The District and the County acknowledge and agree that the District may request and the County would consider taking over, but would not be obligated to take over, ownership and maintenance of District public roads and other District assets or improvements provided any such roads, assets or improvements proposed for takeover by the County shall be brought up to design, construction, and, maintenance standards acceptable to the County prior to acceptance by the County.

D. *Water, Wastewater and Reclaimed Water Services.*

(1) The County agrees that it will provide retail potable and re-use water and wastewater services to lands constituting the District. Unless otherwise privately financed, the District will construct and maintain water and reclaimed wastewater distribution lines and wastewater collection mains necessary to serve the property within the District. However, the District shall not otherwise engage in potable water supply or wastewater

treatment. Unless otherwise privately financed, the District shall be obligated at cost to District to provide water and reclaimed water distribution systems and wastewater collections mains within the District. In addition, unless otherwise privately financed, the District shall be financially responsible for the cost of installing transmission lines, pumps, lift stations, and other improvements, whether on District property or offsite, required to connect to those County water, wastewater, and reclaimed water facilities having adequate capacity to serve the property.

(2) The District and property users located therein shall be subject to and shall comply with all County ordinances, rate resolutions, and policies relating to service or capacity availability, capital charges, rates for services, and other matters relating to securing utility service from County.

(3) Regarding reclaimed water, the County and the District agree that the use of reclaimed water from the County on the property within the District is mandatory and should be negotiated either by the District or the various property owners and/or developers at the time of development of infrastructure, recreational amenities, and building on the property in the District based upon the availability of reclaimed water from the County.

E. *Water Management.* Unless otherwise privately financed, surface water management services and facilities serving District lands (other than systems related specifically to the development of a particular parcel) will be provided by the District at its cost, and the District will be responsible for complying with any stormwater system construction, maintenance, and monitoring obligations imposed by County ordinance or regulation, and state and federal regulations, as relevant.

F. *Powers.* Unless otherwise expressly provided in this section or the Establishing Ordinance, the Parties agree that (1) the District retains all general powers, rights, obligations, and responsibilities granted or imposed by Sections 190.011 and 190.012(1), *Florida Statutes*, and (2) the only Special Powers available to the District are the powers set forth in Sections 190.012(2)(a), (d) and (e), *Florida Statutes*.

G. *Solid Waste Disposal.* All Class I municipal solid waste collected by the District, or any contract hauler servicing property within the District, shall be disposed at an Orange County Solid Waste Disposal Facility including, but not limited to, the County Landfill or Transfer stations (McLeod Road or Porter Road, for example).

H. *Law Enforcement.* Sheriff's protection will be provided to the District property at the level of service generally available throughout Orange County. Should the District, or any property owner within the District once established, seek a higher level of law enforcement protection, the District agrees that the District will not enter into any agreement with the Orange County Sheriff without submitting said agreement between the District and the Sheriff to the Board of County Commissioners of Orange County for approval, to assure that a fair and adequate allocation of the true cost of enhanced Sheriff's protection is paid for by the District and not shifted either to the general fund of the County or to the general body of taxpayers in the unincorporated portions of the County. The District acknowledges and agrees that this obligation to provide for Board of County Commissioners review and approval of any agreement for enhanced Sheriff's protection shall be required even if the District property were

to annex into a municipality that has enhanced Sheriff's protection at a cost lower than that determined by the Board of County Commissioners to be a fair and adequate allocation of the true cost of enhanced Sheriff's protection to the District property.

Section 5. Other Powers. Except as proved in subsection 4.F herein, no other special powers pursuant to Section 190.012(2), *Florida Statutes*, shall be conferred on the District without an amendment to the Establishing Ordinance.

Section 6. Limitations on Governmental Liability. Nothing in this Interlocal Agreement shall be deemed a waiver of immunity limits of liability of either the District or the County beyond any statutory limited waiver of immunity or limits of liability contained in Section 768.28, *Florida Statutes*, as amended, or any other statute. Nothing in this Interlocal Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

Section 7. No Third Party Beneficiaries. This Interlocal Agreement is by and between the County and the District and establishes the relationship between these parties. The provisions of this Interlocal Agreement do not create any rights in any third parties and no such rights should be implied; provided, however, if the District is dissolved by the County, steps will be taken to honor any contractual rights, if any, of all bond holders and other third parties affected by the repeal.

Section 8. Enforcement. In the event either party is required to enforce this Interlocal Agreement by court proceedings or otherwise, then each party shall be responsible for its own costs incurred, including reasonable attorneys' fees.

Section 9. Notice; Proper Form. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered (1) when hand delivered to the official hereafter designated, or (2) upon receipt of such notice when deposited in United States mail, postage prepaid, certified mail, return receipt requested or by overnight delivery service, addressed to a party at the address set forth below, or at such other address as the party shall have specified by written notice to the other party delivered in accordance herewith:

District: Midtown Orlando Community Development District
c/o Fishkind and Associates, Inc.
12051 Corporate Boulevard, Orlando, FL 32817
Attn: District Manager

With copy to: Jan Albanese Carpenter, Esq.
Shuffield, Lowman & Wilson, P.A.
1000 Legion Place, Suite 1700
Orlando, Florida 32801

Orange County: County Administration
Orange County Board of County Commissioners
P.O. Box 1393
Orlando, Florida 32802-1393

With a copy to:

Orange County Attorney
P.O. Box 1393
Orlando, Florida 32802-1393

Section 10. Negotiation at Arm's Length. This Interlocal Agreement has been negotiated fully between the Parties as an arm's length transaction and with the assistance of legal counsel. Both Parties participated fully in the preparation of this Interlocal Agreement. In the case of a dispute concerning the interpretation of any provision of this Interlocal Agreement, both Parties are deemed to have drafted, chosen and selected the language, and the doubtful language will not be interpreted or construed against either party.

Section 11. Assignment or Transfer. Neither party may assign or transfer its rights or obligations under this Interlocal Agreement to another unit of local government, political subdivision or agency of the State of Florida without the prior written consent of the other party, which consent may not be unreasonably withheld. Except as set forth herein, the District may not transfer its rights or obligations under this Interlocal Agreement to a private party or entity without the prior written consent of the County.

Section 12. Amendment. This Interlocal Agreement shall constitute the entire agreement between the Parties and may be modified in writing only by mutual agreement of both Parties. The Parties agree that this Interlocal Agreement may be amended by resolution of each local government adopting an amendment.

Section 13. Applicable Law. This Interlocal Agreement shall be construed, interpreted and controlled by and in accordance with the laws of the State of Florida and any litigation relating to this Interlocal Agreement shall be commenced and conducted in the 9th Judicial Circuit serving Orange County or the Middle District, U.S. District Court.

Section 14. Severability. There are certain provisions of this Interlocal Agreement that are vital to the relationship of the District and the County. More specifically, the terms and conditions set forth in Section 4(A) through 4(H) were important to the County and District in making the decision to approve this Interlocal Agreement. Should any material word, sentence, or other provision of these Sections be stricken by a court of competent jurisdiction, the County shall have the right to require renegotiation of that portion of this Interlocal Agreement that has been stricken in order to negotiate mutually acceptable replacement language consistent with the ruling of the court while taking into account the contractual rights of the persons or entities to whom the District is obligated.

Section 15. Effective Date. This Interlocal Agreement shall become effective upon execution by both Parties.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year indicated below.

ORANGE COUNTY, FLORIDA

By: Board of Orange County Commissioners

BY: _____

Richard T. Crotty
County Mayor

Date: _____

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: _____

Deputy Clerk

**Midtown Orlando
Community Development District,**
a Florida community development district

By: _____

Print Name: _____

Chairman

Attest:

Date: _____

By: _____

Print Name: _____

Secretary/Assistant Secretary

EXHIBIT "A"

Lot 1 and portions of 2, and Tracts "A" and "B", RUBY LAKE, according to the plat thereof, as recorded in Plat Book 67, Pages 42 through 48, Public Records of Orange County, Florida, TOGETHER WITH Lot 2, MARBELLA - PHASE 1, according to the plat thereof, as recorded in Plat Book 42, Pages 149 and 150, Public Records of Orange County, Florida, being more particularly described as follows:

PARCEL #1 (RUBY LAKE LOTS 1 & 2)

BEGINNING at the West 1/4 corner of Section 14, Township 24 South, Range 28 East, Orange County, Florida; thence along the South line of the Northwest 1/4 of said Section 14, North 89°27'15" East, 630.95 feet to the Westerly right of way line of Palm Parkway, per Official Records Book 5138, Page 1988, Public Records of Orange County, Florida; thence along said Westerly right of way line the following six (6) courses and distances: (1) South 38°37'33" West, 290.20 feet to the point of curvature of a tangent curve concave Southeasterly, having a radius of 2,165.00 feet, a central angle of 16°18'17" and a chord bearing and distance of South 30°28'24" West, 614.02 feet; (2) thence along the arc of said curve 616.10 feet to the point of tangency; (3) South 22°19'16" West, 100.71 feet to the point of curvature of a tangent curve concave Northwesterly, having a radius of 1,485.00 feet, a central angle of 57°46'13" and a chord bearing and distance of South 51°12'22" West, 1,434.67 feet; (4) thence along the arc of said curve 1,497.30 feet to the point of tangency; (5) South 80°05'29" West, 159.57 feet to the point of curvature of a tangent curve concave Southeasterly, having a radius of 885.00 feet, a central angle of 31°31'32" and a chord bearing and distance of South 64°19'43" West, 480.83 feet; (6) thence along the arc of said curve 486.95 feet to the South line of Ruby Lake per Plat Book 67, Pages 42-48, Public Records of Orange County, Florida, said point hereinafter referred to as POINT "A"; thence along said Southerly line the following four (4) courses and distances: (1) North 89°50'01" West, 1,053.44 feet; (2) North 89°54'38" West, 334.30 feet; (3) North 00°19'10" East, 49.77 feet; (4) North 89°13'06" West, 791.24 feet to the Westerly line of said plat of Ruby Lake; thence along said Westerly line the following fourteen (14) courses and distances: (1) North 00°02'07" West, 300.98 feet; (2) South 89°44'45" East, 658.24 feet; (3) North 00°03'05" West, 352.48 feet; (4) South 89°54'08" East, 136.94 feet; (5) North 00°15'10" East, 149.99 feet; (6) North 89°53'56" West, 136.99 feet; (7) North 00°18'58" East, 412.40 feet; (8) South 89°57'31" East, 137.22 feet; (9) North 00°18'30" East, 538.14 feet; (10) South 89°42'19" East, 71.82 feet; (11) North 00°31'08" East, 14.01 feet; (12) South 89°39'03" East, 169.40 feet; (13) North 00°22'31" East, 164.93 feet; (14) North 00°20'25" East, 1,344.33 feet to the Northerly line of said plat of Ruby Lake; thence along said Northerly line the following five (5) courses and distance: (1) South 89°53'04" East, 94.00 feet; (2) South 89°09'46" East, 115.60 feet; (3) South 00°20'25" West, 1,343.72 feet; (4) South 89°38'32" East, 215.59 feet; (5) North 00°18'02" East, 163.34 feet; thence North 58°44'45" East, 16.95 feet; thence North 67°37'27" East, 83.81 feet; thence North 41°57'51" East, 64.69 feet; thence South 56°55'25" East, 15.43 feet; thence North 66°36'10" East, 63.88 feet; thence North 76°26'50" East, 58.37 feet; thence North 77°38'10" East, 13.57 feet; thence North 57°38'46" West, 76.00 feet; thence North 79°11'58" East, 114.12 feet; thence South 30°16'39" East, 28.95 feet; thence North 63°56'24" East, 26.33 feet; thence North 00°16'27" East, 100.32 feet; thence South 89°43'32" East, 1,067.97 feet to the point of curvature of a tangent curve concave Southwesterly, having a radius of 500.00 feet, a central angle of 56°22'06" and a chord bearing and distance of South 61°32'29" East, 472.31 feet; thence along the arc of said curve 491.91 feet to the point of tangency; thence South 33°21'26" East, 134.53 feet to a point on a non-tangent curve concave South, having a radius of 71.00 feet, a central angle of 91°42'40" and a chord bearing and distance of South 77°30'06" East, 101.90 feet; thence along the arc of said curve 113.65 feet to the point of reverse curvature of a tangent curve concave

Northeasterly, having a radius of 16.00 feet, a central angle of 58°04'47" and a chord bearing and distance of South 60°41'10" East, 15.53 feet; thence along the arc of said curve 16.22 feet to the point of tangency; thence South 89°43'33" East, 96.25 feet to the point of curvature of a tangent curve concave Northerly, having a radius of 220.00 feet, a central angle of 37°07'22" and a chord bearing and distance of North 71°42'46" East, 140.06 feet; thence along the arc of said curve 142.54 feet to the point of tangency; thence North 53°09'05" East, 69.03 feet to the East line of the Northeast 1/4 of said Section 15; thence along said East line, South 00°00'35" West, 159.63 feet to the POINT OF BEGINNING of Parcel #1.

TOGETHER WITH:

PARCEL #2

COMMENCING at the West 1/4 corner of Section 14, Township 24 South, Range 28 East; thence along the West line of said Section 14, North 00°00'35" East, 175.04 feet to the POINT OF BEGINNING of Parcel #2 and a point on a non-tangent curve concave Easterly, having a radius of 585.00 feet, a central angle of 32°29'42" and a chord bearing and distance of North 16°27'04" West, 327.35 feet; thence along the arc of said curve 331.78 feet to the point of tangency; thence North 00°12'13" West, 359.27 feet to the point of curvature of a tangent curve concave Westerly, having a radius of 415.00 feet, a central angle of 23°56'01" and a chord bearing and distance of North 12°10'13" West, 172.10 feet; thence along the arc of said curve 173.35 feet to a point on a non-tangent curve concave Southwesterly, having a radius of 666.00 feet, a central angle of 25°05'40" and a chord bearing and distance of North 44°32'28" West, 289.37 feet; thence along the arc of said curve 291.70 feet; to the point of compound curvature of a non-tangent curve concave South, having a radius of 415.00 feet, a central angle of 22°36'56" and a chord bearing and distance of North 76°15'11" West, 162.75 feet; thence along the arc of said curve 163.81 feet to the point of tangency; thence North 87°33'39" West, 905.99 feet to the point of curvature of a tangent curve concave Northerly, having a radius of 585.00 feet, a central angle of 20°39'39" and a chord bearing and distance of North 77°13'49" West, 209.81 feet; thence along the arc of said curve 210.95 feet to the North line of said plat of Ruby Lake; thence along said North line the following two (2) courses and distances: (1) South 89°17'53" East, 280.41 feet; (2) South 89°14'15" East, 1,321.02 feet to the East line of the Northeast 1/4 of Section 15, Township 24 South, Range 28 East; thence along said East line, South 00°00'35" West, 1,150.29 feet to the POINT OF BEGINNING of Parcel #2.

AND TOGETHER WITH:

PARCEL #3 (MARBELLA PH 1)

COMMENCING at the aforementioned POINT "A"; thence South 89°51'23" East, 224.32 feet to the most Westerly point of Lot 2, MARBELLA - PHASE 1, per Plat Book 42, Pages 149 and 150, Public Records of Orange County, Florida and the POINT OF BEGINNING #3, said point being on the Southerly right of way of said Palm Parkway and a point on a non-tangent curve concave South, having a radius of 755.00 feet, a central angle of 18°41'05" and a chord bearing and distance of North 70°45'12" East, 245.12 feet; thence along said Southerly right of way line and the arc of said curve 246.21 feet; thence continue along said right of way line the following two (2) courses and distances: (1) North 80°05'33" East, 159.57 feet to a point on a non-tangent curve concave Northerly, having a radius of 1,614.96 feet, a central angle of 09°12'47" and a chord bearing and distance of North 75°29'21" East, 259.40 feet; (2) thence along the arc of said curve 259.68 feet to a point on a non-tangent curve concave Southwesterly, having a radius of 25.00 feet, a central angle of 91°01'42" and a chord bearing and distance of South 63°36'16" East, 35.67 feet; thence along the arc of said curve 39.72 feet to the point of tangency; thence South 17°46'24" East, 175.75 feet to the point of curvature of a curve concave Westerly, having a radius of 115.00 feet, a central angle of

70°19'46" and a chord bearing and distance of South 17°23'29" West, 132.46 feet; thence along the arc of said curve 141.16 feet to the point of compound curvature of a curve concave Northwesterly, having a radius of 255.00 feet, a central angle of 13°41'51" and a chord bearing and distance of South 59°24'18" West, 60.82 feet; thence along the arc of said curve 60.96 feet to the point of compound curvature of a non-tangent curve concave Northerly, having a radius of 15.89 feet, a central angle of 68°56'31" and a chord bearing and distance of South 87°19'56" West, 17.98 feet; thence along the arc of said curve 19.11 feet to the point of reverse curvature of a non-tangent curve concave Southeasterly, having a radius of 50.00 feet, a central angle of 138°51'16" and a chord bearing and distance of South 38°59'01" West, 93.62 feet; thence along the arc of said curve 121.17 feet; thence South 59°11'01" West, 46.98 feet; thence South 81°00'53" West, 234.17 feet; thence North 89°50'51" West, 231.90 feet to the West line of MARBELLA - PHASE 1 per Plat Book 42, Pages 149 and 150, Public Records of Orange County, Florida; thence along said West line, North 00°09'14" East, 300.82 feet; thence North 89°50'52" West, 53.80 feet to the Southerly right of way line of said Palm Parkway and the POINT OF BEGINNING.

The three Parcels containing 7,466,040 square feet or 171.40 acres, more or less.

LESS AND EXCEPT:

A portion of Lot 1, Ruby Lake, as recorded in Plat Book 67, Pages 42 through 48, of the Public Records of Orange County, Florida, being a portion of the Southwest ¼ of Section 15, Township 24 South, Range 28 East, and being more particularly described as follows:

Commence at a found 4"x4" unmarked concrete monument found at the Northeast corner of Theron H. Keen's Addition, as recorded in Plat Book F, Page 28, of the Public Records of Orange County, Florida, being the intersection of the west line of said Ruby Lake and the East-West Centerline of said Section 15; thence, run South 00°22'31" West along said west line a distance of 164.93 feet to a found 4"x4" unmarked concrete monument and the Point of Beginning of the parcel herein described; thence, North 89°39'03" West along the south line of Block 53 of said Theron H. Keen's Addition and the westerly extension thereof a distance of 169.40 feet to a point on the easterly line of Block 54 of said subdivision; thence, South 00°31'08" West along said easterly line a distance of 14.01 feet; thence, leaving said easterly line, South 89°42'19" East a distance of 169.44 feet to the southerly extension of said west line of Ruby Lake; thence, North 00°22'31" East along said extension a distance of 13.85 feet to the Point of Beginning.

Containing 2360 square feet (0.0542 acre) of land, more or less.